

109TH CONGRESS  
1ST SESSION

# H. R. 1397

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain energy-efficient property.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mrs. JOHNSON of Connecticut (for herself, Mr. McNULTY, and Mr. LARSON of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain energy-efficient property.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CREDIT FOR BUSINESS INSTALLATION OF**  
4 **QUALIFIED FUEL CELLS.**

5 (a) IN GENERAL.—Section 48(a)(3)(A) of the Inter-  
6 nal Revenue Code of 1986 (defining energy property) is  
7 amended by striking “or” at the end of clause (i), by add-  
8 ing “or” at the end of clause (ii), and by inserting after  
9 clause (ii) the following new clause:

1 “(iii) qualified fuel cell property,”.

2 (b) QUALIFIED FUEL CELL PROPERTY.—Section 48  
3 of such Code (relating to energy credit) is amended by  
4 adding at the end the following new subsection:

5 “(c) QUALIFIED FUEL CELL PROPERTY.—For pur-  
6 poses of subsection (a)(3)(A)(iii)—

7 “(1) IN GENERAL.—The term ‘qualified fuel  
8 cell property’ means a fuel cell power plant which  
9 generates at least 0.5 kilowatt of electricity using an  
10 electrochemical process.

11 “(2) LIMITATION.—The energy credit with re-  
12 spect to any qualified fuel cell property shall not ex-  
13 ceed an amount equal to \$500 for each 0.5 kilowatt  
14 of capacity of such property.

15 “(3) FUEL CELL POWER PLANT.—The term  
16 ‘fuel cell power plant’ means an integrated system,  
17 comprised of a fuel cell stack assembly and associ-  
18 ated balance of plant components, which converts a  
19 fuel into electricity using electrochemical means.

20 “(4) TERMINATION.—The term ‘qualified fuel  
21 cell property’ shall not include any property placed  
22 in service after December 31, 2009.”.

23 (c) ENERGY PERCENTAGE.—Subparagraph (A) of  
24 section 48(a)(2) of such Code (relating to energy percent-  
25 age) is amended to read as follows:

1                   “(A) IN GENERAL.—The energy percent-  
2                   age is—

3                   “(i) in the case of qualified fuel cell  
4                   property, 30 percent, and

5                   “(ii) in the case of any other energy  
6                   property, 10 percent.”.

7           (d) CONFORMING AMENDMENT.—Section 48(a)(1) of  
8 such Code is amended by inserting “except as provided  
9 in subsection (c)(2),” before “the energy”.

10          (e) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to periods after December 31,  
12 2004, under rules similar to the rules of section 48(m)  
13 of the Internal Revenue Code of 1986 (as in effect on the  
14 day before the date of the enactment of the Revenue Rec-  
15 onciliation Act of 1990).

16 **SEC. 2. CREDIT FOR NONBUSINESS INSTALLATION OF**  
17 **QUALIFIED FUEL CELLS.**

18          (a) IN GENERAL.—Subpart A of part IV of sub-  
19 chapter A of chapter 1 of the Internal Revenue Code of  
20 1986 (relating to nonrefundable personal credits) is  
21 amended by inserting after section 25B the following new  
22 section:

1 **“SEC. 25C. NONBUSINESS INSTALLATION OF QUALIFIED**  
2 **FUEL CELLS.**

3 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
4 dividual, there shall be allowed as a credit against the tax  
5 imposed by this chapter for the taxable year an amount  
6 equal to the sum of 30 percent of the qualified fuel cell  
7 property expenditures made by the taxpayer during such  
8 year.

9 “(b) LIMITATIONS.—

10 “(1) MAXIMUM CREDIT.—The credit allowed  
11 under subsection (a) shall not exceed \$500 for each  
12 0.5 kilowatt of capacity of qualified fuel cell prop-  
13 erty.

14 “(2) PROPERTY STANDARDS.—No credit shall  
15 be allowed under this section for an item of property  
16 unless—

17 “(A) the original use of such property com-  
18 mences with the taxpayer,

19 “(B) such property reasonably can be ex-  
20 pected to remain in use for at least 5 years,

21 “(C) such property is installed on or in  
22 connection with a dwelling unit located in the  
23 United States and used as a residence by the  
24 taxpayer,

25 “(D) such property meets the performance  
26 and quality standards (if any) which have been

1           prescribed by the Secretary by regulations  
2           (after consultation with the Secretary of En-  
3           ergy), and

4           “(E) such property meets appropriate fire  
5           and electric code requirements.

6           “(c) QUALIFIED FUEL CELL PROPERTY EXPENDI-  
7   TURE.—For purposes of this section, the term ‘qualified  
8   fuel cell property expenditure’ means an expenditure for  
9   any qualified fuel cell property (as defined in section  
10 48(c)(1)).

11          “(d) SPECIAL RULES.—For purposes of this sec-  
12 tion—

13           “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
14   CUPANCY.—In the case of any dwelling unit which is  
15   jointly occupied and used during any calendar year  
16   as a residence by 2 or more individuals, the fol-  
17   lowing rules shall apply:

18           “(A) The amount of the credit allowable  
19           under subsection (a) by reason of expenditures  
20           made during such calendar year by any of such  
21           individuals with respect to such dwelling unit  
22           shall be determined by treating all of such indi-  
23           viduals as 1 taxpayer whose taxable year is  
24           such calendar year.

1           “(B) There shall be allowable, with respect  
 2           to such expenditures to each of such individ-  
 3           uals, a credit under subsection (a) for the tax-  
 4           able year in which such calendar year ends in  
 5           an amount which bears the same ratio to the  
 6           amount determined under subparagraph (A) as  
 7           the amount of such expenditures made by such  
 8           individual during such calendar year bears to  
 9           the aggregate of such expenditures made by all  
 10          of such individuals during such calendar year.

11          “(2) TENANT-STOCKHOLDER IN COOPERATIVE  
 12          HOUSING CORPORATION.—In the case of an indi-  
 13          vidual who is a tenant-stockholder (as defined in sec-  
 14          tion 216) in a cooperative housing corporation (as  
 15          defined in such section), such individual shall be  
 16          treated as having made the individual’s tenant-stock-  
 17          holder’s proportionate share (as defined in section  
 18          216(b)(3)) of any expenditures of such corporation.

19          “(3) CONDOMINIUMS.—

20                 “(A) IN GENERAL.—In the case of an indi-  
 21                 vidual who is a member of a condominium man-  
 22                 agement association with respect to a condo-  
 23                 minium which the individual owns, such indi-  
 24                 vidual shall be treated as having made the indi-

1           vidual's proportionate share of any expenditures  
2           of such association.

3           “(B) CONDOMINIUM MANAGEMENT ASSO-  
4           CIATION.—For purposes of this paragraph, the  
5           term ‘condominium management association’  
6           means an organization which meets the require-  
7           ments of paragraph (1) of section 528(c) (other  
8           than subparagraph (E) thereof) with respect to  
9           a condominium project substantially all of the  
10          units of which are used as residences.

11          “(4) ALLOCATION IN CERTAIN CASES.—If less  
12          than 80 percent of the use of an item is for nonbusi-  
13          ness purposes, only that portion of the expenditures  
14          for such item which is properly allocable to use for  
15          nonbusiness purposes shall be taken into account.

16          “(5) WHEN EXPENDITURE MADE; AMOUNT OF  
17          EXPENDITURE.—

18                 “(A) IN GENERAL.—Except as provided in  
19                 subparagraph (B), an expenditure with respect  
20                 to an item shall be treated as made when the  
21                 original installation of the item is completed.

22                 “(B) EXPENDITURES PART OF BUILDING  
23                 CONSTRUCTION.—In the case of an expenditure  
24                 in connection with the construction or recon-  
25                 struction of a structure, such expenditure shall

1           be treated as made when the original use of the  
2           constructed or reconstructed structure by the  
3           taxpayer begins.

4           “(C) AMOUNT.—The amount of any ex-  
5           penditure shall be the cost thereof.

6           “(6) PROPERTY FINANCED BY SUBSIDIZED EN-  
7           ERGY FINANCING.—For purposes of determining the  
8           amount of expenditures made by any individual with  
9           respect to any dwelling unit, there shall not be taken  
10          into account expenditures which are made from sub-  
11          sidized energy financing (as defined in section  
12          48(a)(4)(C)).

13          “(e) BASIS ADJUSTMENTS.—For purposes of this  
14          subtitle, if a credit is allowed under this section for any  
15          expenditure with respect to any property, the increase in  
16          the basis of such property which would (but for this sub-  
17          section) result from such expenditure shall be reduced by  
18          the amount of the credit so allowed.

19          “(f) TERMINATION.—The credit allowed under this  
20          section shall not apply to taxable years beginning after  
21          December 31, 2009.”.

22          (b) CONFORMING AMENDMENTS.—

23                (1) Section 1016(a) of such Code is amended  
24                by striking “and” at the end of paragraph (30), by  
25                striking the period at the end of paragraph (31) and



1 inserting “, and”, and by adding at the end the fol-  
2 lowing new paragraph:

3 “(32) to the extent provided in section 25C(e),  
4 in the case of amounts with respect to which a credit  
5 has been allowed under section 25C.”.

6 (2) The table of sections for subpart A of part  
7 IV of subchapter A of chapter 1 of such Code is  
8 amended by inserting after the item relating to sec-  
9 tion 25B the following new item:

“Sec. 25C. Nonbusiness installation of qualified fuel cells.”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years ending after De-  
12 cember 31, 2004.

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